

Serial No.: 09/911,143
Examiner: Jorge L. Ortiz-Criado
Title: OPTICAL ELEMENT, OPTICAL HEAD, OPTICAL RECORDING/REPRODUCING APPARATUS AND OPTICAL RECORDING/REPRODUCING METHOD
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REMARKS

Reconsideration is requested in view of the following remarks. Claim 34 is pending in the application.

Claim Rejections – 35 USC § 112

Claim 34 is rejected under 35 USC § 112, first paragraph, due to an alleged failure of the specification to provide a written description of that the "administrative information of the optical recording medium including at least one of a recording and reproduction condition of the optical recording medium" as recited in claim 34.

Applicants respectfully traverse this rejection. Page 28, lines 14-19 of the present specification provides "administrative information of the second optical recording medium 122 is recorded in the second recording layer B." Those skilled in the art would understand that the administrative information of a recording medium includes recording and reproducing condition of a recording medium.

Evidence is set forth in the attached Declaration under 37 CFR 1.132 by Keiichi Matsuzaki, a non-inventor declarant. Mr. Matsuzaki holds a master degree in electrical/information technology. He had twelve-year experience in research and development of DVD-compatible optical pickups and devices and Blu-ray Disk compatible optical pickups and devices. Mr. Matsuzaki explained in detail the basis for his conclusion that "a person of ordinary skill [in the art], at the time this application was filed, would have recognized that the 'administrative information' discussed in the specification of the present application included 'at least one of a recording and reproducing condition' as presently recited in claim 34." Therefore, claim 34 is supported by the original disclosure and the rejection should be withdrawn.

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Claim Rejections – 35 USC § 102

Claim 34 is rejected under 35 USC § 102(b) as being anticipated by Kashiwagi (US 6,175,548). Applicants respectfully traverse this rejection.

Claim 34 requires that an optical recording medium have first and second recording layers on which signals are recorded or reproduced with a laser beam having a wavelength of 390nm to 420nm, that the first recording layer have recorded thereon administrative information of the optical recording medium including at least one of a recording and reproduction condition of the optical recording medium, and that a distance from a surface of the optical recording medium on which the laser beam is incident to the first recording layer be $100\mu\text{m} \pm 10\mu\text{m}$.

By providing the administration information including at least one of a recording and reproduction condition of the optical recording medium on the first recording layer located $100\mu\text{m} \pm 10\mu\text{m}$ from the laser beam incident surface of the multi-layer optical recording medium, the administration information of the optical recording medium can be reproduced without requiring a determination of whether the optical recording medium set in a recording/reproduction apparatus is a single layer optical recording medium or a multi-layer recording medium (see Fig. 12A and page 27, line 30 to page 30, line 11 of the present specification).

Kashiwagi fails to disclose administrative information including at least one of a recording and reproduction condition of the optical recording medium being recorded on a first recording layer located a distance of $100\mu\text{m} \pm 10\mu\text{m}$ from the laser beam incident surface of the multi-layer optical recording medium, as recited by claim 34. For at least these reason, claim 34 is patentable over Kashiwagi.

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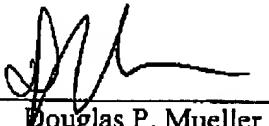
In view of the above, favorable reconsideration in the form of a notice of allowance is respectfully requested. Any questions regarding this communication can be directed to the undersigned attorney, Douglas P. Mueller, Reg. No. 30,300, at (612) 455-3804.

Respectfully submitted,

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Dated: October 26, 2006

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DPM/cy